

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION**

ESTATE OF J.C. PAYNE, IV,

PLAINTIFF

VS.

CAUSE NO.: 2:21-cv-02539

**CITY OF MEMPHIS, TENNESSEE,
EARNEST CARTWRIGHT, SR. and
MEMPHIS LIGHT GAS & WATER
AKA MLGW and JOHN DOE POLICE
OFFICERS 1-10,**

DEFENDANTS.

**PLAINTIFF'S, ESTATE OF J.C. PAYNE, IV'S, MOTION TO DISMISS THE
COMPLAINT OF PLAINTIFF ESTATE OF J.C. PAYNE, IV AND SUSAN SIMS, IN
HER REPRESENTATIVE CAPACITY**

COMES NOW, Plaintiff, the Estate of J.C. Payne, IV, by and through Juan T. Williams, Attorney, and files this motion to respectfully request the dismissal of the complaint filed by Plaintiff Estate of J.C. Payne, IV and Susan Sims and would show as follows:

I. PREMISE

U-Landa B. Shaw was appointed by the Probate Court of Shelby County as the administratrix for the estate of J.C. Payne, IV. The Petition named the heir of J.C. Payne, IV as J.C. Payne, V and that he had two (2) putative children: Jayda Payne and Jayden Payne. U-Landa Shaw filed sue against the City of Memphis, Earnest Cartwright, Sr., Memphis, Light, Gas and Water and John Doe Police Officers in the United States District Court for the Western District of Tennessee for wrongful death and violation of his constitutional rights. Susan Sims, as Natural Mother, Next Friend, Next of Kin and on Behalf of J.C. Payne, V, a minor and Jayden Payne, a

minor and Jayda, a minor, as minor children and statutory wrongful death beneficiaries of J.C. Payne, IV, deceased filed suit against City of Memphis, Tennessee, John Doe and/or Jane Doe Memphis Police Officer(s) and Memphis, Light, Gas & Water and Earnest Cartwright, Sr. The Court ordered the parties to file motions and memoranda addressing the identity of the proper plaintiff or plaintiffs.

II. SUPPORTING DOCUMENTS

In support of their Motion to Dismiss, Plaintiff, the Estate of J.C. Payne, IV attach the following:

EXHIBIT A- Petition for Appointment of Administrator's Petition to Determine Heirs and Issuance of Letters of Administration.

EXHIBIT B- Summons In Civil Action to Susan Sims.

EXHIBIT C- Order on Petition for Appointment of Administrator and Issuance of Letter of Administration.

III. THE BASIS FOR RELIEF

As required by Uniform District Court Rule 7.2, Plaintiff, the Estate of J.C. Payne, IV, are filing herewith a Memorandum of Authorities.

WHEREFORE, PREMISES CONSIDERED, the complaint filed by Susan Sims, as Natural Mother, Next Friend, Next of Kin and on Behalf of J.C. Payne, V, a minor and Jayden Payne, a minor and Jayda, a minor, as minor children and statutory wrongful death beneficiaries of J.C. Payne, IV, deceased be dismissed. In addition to dismissal, that the movant prays for their reasonable fees, costs and expenses.

Respectfully submitted this the 1st day of December 2021.

ATTORNEYS FOR PLAINTIFF

/s/ Juan T. Williams

Juan T. Williams (BPR # 27626)

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CERTIFICATE OF SERVICE

I, Juan T. Williams, attorney of record for Plaintiffs, do hereby certify that I have this day caused a true and correct copy of the above and foregoing *PLAINTIFF'S, ESTATE OF J.C. PAYNE, IV'S, MEMORANDUM IN SUPPORT OF MOTION TO DISMISS THE COMPLAINT OF PLAINTIFF ESTATE OF J.C. PAYNE, IV AND SUSAN SIMS, IN HER REPRESENTATIVE CAPACITY* to be delivered by the ECF Filing System which gave notice to all counsel of record who have appeared herein.

DATED this 1st day of December 2021.

/s/ Juan T. Williams

Juan T. Williams